

*United States v. Coombs*, [37 U.S. 72 \(1838\)](#).

Location: Rockaway Beach, New York

Applicable Law: [Plunder of Distressed Vessel \(18 U.S.C. § 1658\)](#)

Where Law Applies: *Plunder of Distressed Vessel*: In all maritime zones subject to U.S. admiralty and maritime jurisdiction, including the exclusive economic zone and high seas. Here, the law applies to a vessel wrecked upon a beach above the high water mark.

Holding:

- 1) Property that is taken needs only to *belong to* such vessel as specified in the statute and does not need to be stolen from the ship itself for the offense to be within federal jurisdiction of the court.
- 2) “[T]he present section is perfectly within the constitutional authority of Congress to enact; although the offence provided for may have been committed on land, and above the high water mark.”

*General Facts:*

The defendant, Lawrence Coombs, was indicted under Section 9 of the Crimes Act of 1825 for taking goods (a trunk, yarn, silk, ribbons, muslin, and hose) from a beach above the high water mark that belonged to the ship *Bristol*, which was in distress and cast upon a shoal off the coast of southern New York.

Section 9 of the Crimes Act of 1825, 18 Cong. ch. 65, § 9, 4 Stat. 116, (currently Plunder of Distressed Vessel (Plunder Statute), 18 U.S.C. § 1658) states:

That, if any person or persons shall plunder, steal, or destroy, any money, goods, merchandise, or other effects, from or belonging to any ship or vessel, or boat, or raft, which shall be in distress, or which shall be wrecked, lost, stranded, or cast away, upon the sea, or upon any reef, shoal, bank, or rocks, of the sea, or in any other place within the admiralty and maritime jurisdiction of the United States, . . . every person, so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and imprisonment and confinement to hard labour, not exceeding ten years, according to the aggravation of the offence.

*Procedural Posture:*

This case came before the United States Supreme Court on a certificate of division of opinion between the judges of the Circuit Court for the Southern District of New York regarding whether the offense was committed within the federal jurisdiction of the court.

### *Court Holding and Reasoning:*

The two primary issues in this case were (1) whether the offense occurred within the federal jurisdiction of the court – specifically, whether the goods must be taken from the vessel itself or simply belong to the vessel; and (2) the authority of Congress to enact this legislation.

On the first issue of the location of the goods when taken, the Court highlighted the specific language of Section 9 (currently 18 U.S.C. § 1658, the Plunder Statute): “If any person shall plunder, steal, or destroy any money, goods, merchandise, or other effects, *from or belonging to* any ship, or vessel . . . .” The U.S. Supreme Court clarified that Section 9 means to “prohibit and punish such plunder, stealing, or destroying . . . whether the act be done on shore, or in any of the enumerated places below high water mark” rather than “only when the same property is then on board of the vessel, or is then upon the sea . . . .” Property that is taken needs only to *belong to* such vessel as specified in the statute and does not need to be stolen from the ship itself. A locality requirement is attached solely to the ship, not the property at issue.

In support of this conclusion, the Court first reasoned that “this is the natural meaning of the words of the clause” and, unlike every preceding section of the Crimes Act of 1825, this provision does not expressly state that the offense must be committed in a particular place. The additional offenses in Section 9 (currently 18 U.S.C. § 1658(b) (2006)), such as ‘showing any false light’, are also without a locality requirement; in most cases, such acts would be committed on shore and above the high water mark.<sup>1</sup> Reading all of the clauses in Section 9 together, the Court found a “very strong reason to believe that Congress, throughout the whole enactment, had the same intent: an intent to punish all the enumerated offences, whether committed on land or on tide waters; because they were equally within the same mischief and the prohibitions equally necessary to the protection of the commerce and navigation of the United States.”

From a policy perspective, to punish an offense only when it is committed below the high water mark, but not when the same offense is committed above the high water mark, would go against “the public policy of affording complete protection to property, commerce, and navigation, against lawless and unprincipled freebooters” which should be equally applicable above and below the high water mark where the wrong committed and injury are the same. Furthermore, to only punish such acts when done on the sea and not on shore would be to let acts which are “of the most frequent and constant occurrence . . . and most mischievous in their consequences” go unpunished. Thus, a locality provision for property would be inconsistent with the objective of the statute.

The Court also weighed another consideration regarding the issue of locality, stating,

[I]n cases of shipwreck there must always be great practical difficulties in ascertaining the precise place, whether below or above high water mark, where the property is first plundered, stolen or destroyed; as well as by direct evidence to identify the particular persons by whom the offence was committed . . . .

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<sup>1</sup> *U.S. v. Coombs*, 37 U.S. at 80. Even obstructing a person’s effort to save his or her life may occur on or near shore by removing the means of escape, or injuring or threatening injury should the person land on shore. *Id.* With regards to the legislation in the first crimes act of 1790, aiding or advising in piracy was punishable and “[t]hese are acts which, in many cases, would be done on shore. *Id.* at 74.

While some are on the waves bringing the plunder to the shore; others are or may be on the shore stationed to guard and secure the booty. Under such circumstances, if the jurisdiction of the courts of the United States were limited to acts of depredation or destruction, committed below high water mark the enactment would become practically almost a dead letter; for in most cases it would be impossible to establish, by direct proof, that the property was taken below high water mark.

The Supreme Court, after examining Section 9, concluded, “[T]here is no ground, in constitutional authority, in public policy, or in the nature or object of the section, which call upon [the Court] to insert any” locality restriction not expressed by the Legislature.

On the issue of the constitutional authority to enact Section 9, the Court determined that “the present section is perfectly within the constitutional authority of Congress to enact; although the offence provided for may have been committed on land, and above the high water mark.” Congress’s power to regulate commerce under the Constitution “extends to such acts, done on land, which interfere with, obstruct, or prevent the due exercise of the power to regulate commerce and navigation with foreign nations, and among the states.”